

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AARON BREEDEN, et al.,

Plaintiffs,

vs.

BENCHMARK LENDING GROUP, INC., and
DOES 1- 200, inclusive,

Defendants.

Case No. C 04-5104 SC

**[PROPOSED] ORDER AND
JUDGMENT (1) APPROVING
SETTLEMENT; (2) APPROVING
PLAINTIFFS' COUNSEL'S REQUEST
FOR ATTORNEYS' FEES AND
COSTS; AND (3) APPROVING
SERVICE PAYMENTS TO CLASS
REPRESENTATIVES**

Date: November 17, 2006

Time: 10:00 a.m.

Dept: Courtroom 1

Judge: Hon. Samuel Conti

This Court having reviewed the applications of Plaintiffs and Plaintiffs' counsel and, having received no objection from Defendants or any Class Member, hereby rules as follows:

Based on the evidence presented, this Court finds that the proposed settlement is fair and reasonable and in the best interest of the Class. This Court also finds that the requisite elements of an Federal Rules of Civil Procedure, Rule 23 Class Action have been met and that a Class Action is the superior method for litigating and resolving this case. This Court also finds that plaintiffs' counsel was responsible for obtaining a benefit to the Class of at least \$1,500,000.

THIS COURT HEREBY ORDERS AS FOLLOWS:

- (1) The Settlement is approved. Plaintiffs have shown the Settlement to be fair and reasonable. The Class, defined below, is certified. The Court finds that the basis for the causes of action all arise from similar facts, primarily whether loan officers were misclassified as "exempt." The Court further finds that a Class Action is the preferred

1 mechanism for resolving this dispute given that the claims are similar and that the
2 proposed Settlement addresses differences in damages between Class Members;

3
4 a) The Court hereby appoints as Class Representatives Brian Winogradov, Charles
5 Woods, Michael Pavelka and Aaron Breeden.

6
7 b) The Court hereby appoints the law firm of Beyers Costin as Class Counsel.

8
9 c) The Class is defined as,

10 All current or former employees of Benchmark employed in the
11 State of California in the position of Loan Officer at any time
12 during the period between November 12, 2000 and January 1,
13 2005.

14 (2) Fees and costs for Plaintiffs' counsel are approved in the amount of \$375,000. This
15 amount represents less than the 25% "benchmark" for class action fees, and is reasonable
16 given the significant benefit conferred upon the Class and the risk undertaken by counsel.
17 There have been no objections to this application. The fees will be paid no later than 10
18 days from the entry of this order.

19 (3) The applications of the Class Representatives for incentive compensation are approved in
20 the amount of \$20,000 each, which shall be paid within 10 days of entry of this order.

21
22 (4) This Court hereby dismisses this matter. The Court reserves jurisdiction to enforce the
23 terms of the Settlement, or resolve any disputes arising from the interpretation or
24 administration of the Settlement.

25
26 Dated: _____

27 _____
28 HONORABLE SAMUEL CONTI